DETAILED ACTION

1.   This Office Action is in response to an Appeal Brief filed 08/09/2011.

Status of Claims

2.   Claims 1, 2, 4, 5, 7-16, 18, 19, 21-29, 31, 32 and 34-38 are pending in this application.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3.   Claims 28, 29, 31, 32 and 34-38 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 28, 29, 31, 32 and 34-38 are set forth a "computer readable storage medium." However, the specification as originally filed does not explicitly define the computer readable storage medium. The United States Patent and Trademark Office (USPTO) is obliged to give claims their broadest reasonable interpretation consistent with the specification during proceedings before the USPTO. See In re Zletz, 893 F.2d 319 (Fed. Cir. 1989) (during patent examination the pending claims must be interpreted as broadly as their terms reasonably allow). The broadest reasonable interpretation of a claim drawn to a computer readable media (also called machine readable medium and other such variations) typically covers forms of non-transitory tangible media and transitory propagating signals per se in view of the ordinary and customary meaning of computer readable media, particularly when the specification is absent an explicit definition or is silent. See MPEP 2111.01. When the broadest reasonable interpretation of a claim covers a signal per se, the claim must be rejected under 35 U.S.C. § 101 as covering non-statutory subject matter. See In re Nuijten, 500 F.3d 1346, 1356-57 (Fed. Cir. 2007)

(transitory embodiments are not directed to statutory subject matter) and Interim Examination

Instructions for Evaluating Subject Matter Eligibility Under 35 U.S.C. § 101, Aug. 24, 2009; p. 2.

This rejection may be overcome by amending the claim to read a "non-transitory" computer

readable storage medium.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 1, 2, 4, 5, 7-16, 18, 19, 21-29, 31, 32 and 34-38 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Ismail et al (US 2006/0212900).

        Regarding Claims 1, 12 and 28, Ismail discloses an apparatus (e.g., see FIG.1) with

corresponding method and computer readable storage medium comprising:

        a control module (FIG.1, 100) to generate an interactive list of content files for

presentation to a user based on a profile of said user (105, e.g., see Para 263 lines 1-10),

wherein each of said selected content files is a broadcasted program comprising a plurality of

content segments and a plurality of play sequences for the corresponding content file; and

wherein each of the plurality of play sequences represents a different story line for the

broadcasted program and each content segment has associated segment information within said

content information (e.g., see FIG.44, 860; Abstract; Para 268-269; Para 227-228; each content

segment, each scene, representing a different story line for the broadcasted program and has

associated segment information such as tagged information);

        to receive, at a selection device, a selection input command selecting the one of said

content files from said interactive list (when user selects a program from said interactive list to

watch); to retrieve a detailed profile of a user and content information associated with a selected content file, and to select a play sequence of said selected content file based on said detailed profile and said content information; and a presentation module (108) to present said play sequence to said user (e.g., see FIG.44; Para 268-269).

Ismail further discloses modifying said play sequence and associated story line corresponding to the selected content to switch to a different story line of that broadcast program (e.g., see FIG.44; Para 268; an alternative scene is selected to replace the original scene in the programming based on the user profile) but is silent about modifying said play sequence if further selection input is received from said user in response to presenting said play sequence.

In one embodiment, Ismail discloses an alternative known method of prompting the user with options to select between alternative ads as being received by the set-top box (e.g., see Para 270 lines 7-14).

Therefore, a person of ordinary skill in the art would have had good reason to pursue the known options of giving the user control over selecting an alternative scene for a customized programming when multiple alternative scenes are available for selection. It would require no more than "ordinary skill and common sense" to give the user (rather than the computer program) control over the selection of an alternative scene.

Regarding Claims 2, 14, 15 and 29, as described above in claims1, 12 and 28, a person of ordinary skill in the art would have had good reason to pursue the known options of giving the user control over selecting an alternative scene for a customized programming; thus, it would be natural and obvious to include receiving an explicit input command from the user and request a change in the play sequence of the selected content file and further selects a modified play sequence of the selected content file based on the explicit input command and presents the modified play sequence to the user as an option desired by the user.

Regarding Claims 4, 18 and 31, Ismail further discloses the selected content file comprises audio/video data (e.g., see FIG.1, 105; television programs comprising audio/video data).

Regarding Claims 5, 19 and 32, Ismail further discloses the content information associated with the selected content file comprises a description of the selected content file and news related to the selected content file (e.g., see FIG.1, 107; Para 67).

Regarding Claims 7, 21 and 34, Ismail further discloses processing the segment information of the each content segment and the profile of the user to match the segment information with the profile, and selects a predetermined number of content segments from the plurality of content segments in a predetermined order to form the play sequence (e.g., see FIG.44; Para 268 lines 13 - last line).

Regarding Claims 8, 22 and 35, Ismail further discloses the play sequence comprising a predetermined number of content segments of the selected content file in a predetermined order (e.g., see FIG.44, 860) and the modified play sequence further comprises the predetermined number of content segments in a modified order requested by the explicit input command (e.g., see Para 22; the user is able to skip certain segments such as advertisements when resume viewing of the program after the pause).

Regarding Claims 9, 23 and 36, Ismail further discloses the control module selecting advertising material based on the profile of the user and the presentation module further presents the advertising material to the user together with the play sequence of the selected content file (e.g., see Para 268 lines 13 - last line).

Regarding Claims 10, 26 and 37, Ismail further discloses the explicit input command requests presentation of at least one advertisement to the user (e.g., see Para 263 lines 10-12).

Regarding Claims 11, 27 and 38, Ismail further discloses selecting the at least one advertisement based on the explicit input command and the presentation module presents the at least one advertisement to the user (e.g., see Para 263 lines 10-12).

Regarding Claim 13, Ismail further discloses a storage module (e.g., see FIG.1, 106) to store the detailed profile of the user (e.g., see Para 68) and a plurality of content files including the selected content file (e.g., see FIG.1, 105, 107).

Regarding Claim 16, Ismail further discloses retrieving the profile of the user and the plurality of content files from the storage module and selects at least one content file of said plurality of content files based on said profile of said user (e.g., see Para 263 lines 1-7).

Regarding Claim 24, Ismail further discloses the profile of the user is stored in a profile storage area of the storage module (e.g., see FIG.1, 116).

Regarding Claim 25, Ismail further discloses the plurality of content files is stored in a content storage area of the storage module (e.g., see FIG.1, 105).

Response to Arguments

5.   Applicant's arguments with respect to claims 1, 2, 4, 5, 7-16, 18, 19, 21-29, 31, 32 and 34-38 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6.   Claims 1, 2, 4, 5, 7-16, 18, 19, 21-29, 31, 32 and 34-38 are rejected.

Correspondence Information

7.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRED PENG whose telephone number is (571)270-1147. The examiner can normally be reached on Monday-Friday 09:30-19:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hirl can be reached on (571) 272-3685. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Fred Peng/

Examiner, Art Unit 2426